



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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CONTENTS

Week in Review	02
House Committee Action	07
Bills Introduced in the House	09

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WEEK IN REVIEW

HOUSE

H.4700, the general appropriations act for fiscal year 1998-99, was introduced and is scheduled for discussion during the first week of March.

The House amended Senate amendments to H.3337, which provides each administrative law judge with the authority to appoint, hire, contract, and supervise his or her support staff. The bill also requires a solicitor to be licensed to practice law by the South Carolina Bar at the time of his election and throughout his term. Senate amendments authorize the chief judge to assign judges of the division to hear contested cases, only. The House amended the legislation so that judges could be assigned to hear all cases. The bill, as amended, was returned to the Senate.

The House amended and sent to the Senate H.4445, which concerns foster children. Current law requires caseworkers from the Department of Social Services (D.S.S.) to personally contact foster children. This bill stipulates that the contacts must be personal, face-to-face visits. The visits may be conducted in the foster home and in the presence of other persons who reside in the home, but if the caseworker suspects the child has been abused or neglected, the observation and interview of the child must be conducted outside the presence of other persons who reside in the foster home. Furthermore, the bill requires the caseworker to conduct an interview with the foster parent, either in person or by telephone, at least once a month, and the caseworker must conduct a personal, face-to-face interview at least once each quarter with each adult who resides in the foster home. Foster parents must make themselves reasonably available for the interviews and unreasonable noncompliance constitutes grounds for revocation of a foster parent's license. The amendment approved for H.4445 concerns the placement of a child after removal from the custody of the parents or guardian. The amendment provides that the plan for a child's placement must include a determination of whether it is in the child's best interest for the parents, guardian, or any other person to know of the nature and location of the child's placement. D.S.S. must consider evidence of sexual or physical abuse or substance abuse by an adult living in the child's home, or criminal domestic violence in the child's home in making such a determination. When disclosure of the location of the placement is determined to be contrary to the best interest of the child, disclosure must not be made to the abusing party, or to any other member of the abusing party's household.

The House amended and passed H.4486, which provides that a valid protection order related to domestic or family violence, issued by a court of another state, tribe, or territory must be accorded full faith and credit by the courts of this State and enforced as if it were issued in this State even if the relief granted to the petitioner in the foreign order would not be available under the laws of this State. A law enforcement officer may rely upon a copy of a protection order which has been provided to the officer by any source and which appears valid on its face regardless of certification, and the officer may rely upon the statement of any person protected by a protection order that the order remains in effect. An officer must enforce a valid order

regardless of whether it has been entered into the National Crime Information Center or other registry. An officer must enforce a foreign order regardless of whether it has been filed in a South Carolina court.

The House read for the third time and sent to the Senate H.4381, which requires an entity that receives funds for domestic violence programs from the Department of Social Services (DSS) to comply with the treatment program standards in DSS's Battered Spouse Program Plan. This plan details DSS's initiatives to meet the needs of under-served areas in the state and outlines requirements for provider agencies.

The House amended and approved H.3760 which requires an unmarried pregnant female under 18 to attend a free pregnancy prevention education course offered at a local health department. The bill requires the Department of Health and Environmental Control (DHEC) to specify the content of the course, which must include information on birth control methods and sexually transmitted diseases. Health care professionals who provide care to these teenagers must refer them to the appropriate county health department and inform them that attendance and completion of this course is a required component of their care. The amendment approved for H.3760 directs DHEC to report to the General Assembly by January 1, 1999 on the cost to develop and implement a comparable pregnancy and sexually transmitted disease prevention education course for males.

The House amended and sent to the Senate H.4569 which requires licensing, rather than the current registration, of mortgage loan brokers and originators, and establishes continuing education requirements. This bill provides that, beginning September 30, 1998, a mortgage loan broker must complete at least twelve hours of continuing professional education annually, and an originator must complete at least six hours of such education annually. Failure to complete continuing education requirements will result in the expiration of the license without an administrative hearing and a penalty not to exceed one hundred dollars for renewal. In order to qualify for licensure as a mortgage loan broker, an individual must have at least two years experience working as an originator under the supervision of a mortgage loan broker, or other specified equivalent experience. However, all mortgage loan brokers properly licensed as of October 1, 1998, may continue without showing proof of such experience, so long as they comply with the continuing education requirements imposed under the bill. A fee of twenty-five dollars for each originator is added to the annual renewal fee. An originator is defined as an employee of a mortgage loan broker whose primary job responsibilities include direct contact with, and the informing of, loan applicants of the rates, terms, disclosure, and other aspects of the mortgage. The amendment approved by the House allows a license to be refused to an individual who has been convicted of, pled guilty of, or pled *nolo contendere* to specified offenses within the past ten, rather than the current five, years.

The House approved and sent to the Senate H.4543 which conforms South Carolina law to Federal law by setting the maximum allowed amounts of a bank's loans to borrowers as percentages of the bank's "unimpaired capital." "Unimpaired capital" is defined.

The House amended and sent to the Senate H.4507 which provides that a licensed contractor who leaves the state with unpaid debts and subsequently returns to the state to become licensed again or to do business under an unexpired S.C. license, must file with the State Licensing Board for Contractors a signed, notarized statement listing all outstanding debts

incurred from doing business in this state as well as all bankruptcies from any time and place. The bill was amended so as to make clear that the Board has the authority to refuse to issue or revoke a license based on the information contained in the statement.

The House amended and sent to the Senate H.4346 which provides that before the Department of Public Safety (DPS) produces and distributes a special license plate created by the General Assembly, DPS must receive: (1) four hundred prepaid applications for the plate or a deposit of \$4,000 from the individual or organization seeking issuance of the plate; and (2) a marketing plan for sale of the plate, which must be approved by DPS. The bill further provides that if DPS receives less than four hundred biennial applications and renewals for a particular special license plate, it shall not produce additional plates in that series. This bill also provides that a school may request a change in the emblem, seal, or other symbol imprinted on the special plate once the existing inventory of the license plate has been exhausted. The House amended the bill by striking the January 1, 1998 creation date for the special plates. Current law provides that a school may request this change not more than once every five years.

The House amended and sent to the Senate H.3784 which rewrites the practice act for physical therapists (PT) to make it conform to the administrative framework established for boards and commissions administered by the Department of Labor, Licensing and Regulation (LLR). The bill makes several other substantive changes: (1.) Increases the number of board members from 5 to 9; (2.) Adds a definition for "physical therapy aide" - an unlicensed aide to a physical therapist assistant (PTA); (3.) Revises the definition of the term "physical therapy". Current law requires physical therapy services to be administered under the prescription of a licensed medical doctor or dentist. The bill deletes the requirement for a prescription. It also substantially revises the description of what comprises the practice of physical therapy. New elements in the definition include prevention, consultation, education, and advisory services; (4.) Prohibits a PT from accepting payment for patient referrals; (5.) Requires a PT to refer to a licensed medical doctor or dentist any patient whose medical condition should have been determined at the time of evaluation or treatment to be beyond the scope of practice of a physical therapist or whose medical condition did not improve within 30 days after initial treatment; (6.) Updates the qualifying criteria for licensure as a PT; Defines minimum college education requirements; (7.) Requires applicants for licensure to submit a PT school transcript with the board application. Also provides an applicant may not be granted a license if he/she has failed the examination three times; (8.) Changes annual license renewal to biennial renewal and adds requirements for continuing education as a condition for license renewal (30 hour biennium). Establishes provision for inactive license; (9.) Establishes procedures for provisional license for applicants who meet minimum standards; (10.) Establishes documentation standards for patients' physical therapy records and makes clear that the supervising physical therapist is responsible for the record; (11.) Establishes the role of physical therapy aids, mandates supervision and limits activities for aids; (12.) Updates requirements for supervision of physical therapist assistants. Current law requires the patient to be reevaluated and the plan of care re-approved by a physical therapist every eighth treatment. The bill requires a re-evaluation and plan re-approval every eighth treatment or every 60 days, whichever comes first; (13.) A provision is added to make it clear that there will be no mandate for payment by health insurance policies for physical therapy services. The House amended H.3784 so as to: (1.) Revise the definition of "the practice of physical therapy" to limit the kinds of tests a PT may perform and make it clear that a PT is not authorized to prescribe medications or other medical tests. (2.) Revise the powers of the Board of Physical Therapy to

limit the board's regulatory power. The bill as introduced authorized the board to promulgate regulations defining and regulating the practice of physical therapy. The amendment authorizes the board to promulgate regulations for the practice of, but not the definition of, physical therapy. (3.) Revise the referral requirements for patients who are treated by a physical therapist without an initial referral from another health care provider. The change will require a PT to refer those patients to a licensed medical doctor or dentist if the PT treats the patient for more than thirty days. (4.) Prohibit a PT from changing patient care instructions of another health care provider without prior consultation with and approval by the health care provider. (5.) Specifically establish that nothing in the Physical Therapy Practice Act will restrict, inhibit, or limit the practice of chiropractors, nurse practitioners, physicians assistants, athletic trainers, massage therapists, exercise physiologists, personal trainers, dentist, or medical doctors. (6.) Specifically establish that nothing in the Physical Therapy Practice Act will affect the provisions of the Workers' Compensation code. The House also amended the bill to allow a licensed to be refused, revoked, suspended or restricted if a physical therapist fails to refer to a medical doctor or dentist after thirty days a patient which was not referred to the physical therapist by a medical doctor or dentist.

The House amended and sent to the Senate H.3013 which exempts a cosmetologist who is at least 60 years old and who has possessed a cosmetology license for at least 15 consecutive years from taking continuing education courses. The House amended the bill so as to also exempt from continuing education courses those who have held a continuous license for at least thirty years, are fifty years of age, and who have not been disciplined by the board. The House also amended the bill to provide that, upon approval by the board and submission of an attendance form, a person may obtain continuing education credit by attendance at a trade show cosmetology-related instructional program.

The House amended and gave second reading to H.3842, which extends the provisions of Truth in Sentencing to all crimes and establishes advisory sentencing guidelines for crimes with maximum penalties of one year or more. The bill provides that the court should consider the guidelines when determining the appropriate sentence for applicable criminal offenses. The advisory sentencing guidelines use a two-dimensional grid to determine the appropriate sentence for offenders. The offense with the greatest possible maximum penalty is used to select the appropriate horizontal severity level on the grid. The current conviction score and the prior record score are combined to create the appropriate vertical level on the grid. The appropriate sentencing grid cell is then selected based on the intersection of these two levels. Within each grid cell, there are three sentencing ranges - the presumptive range (for cases with no extraordinary circumstances), the aggravating range (for cases warranting a longer sentence because of aggravating sentences), and the mitigating range (for cases warranting a lesser sentence because of mitigating factors). The bill also gives the court discretionary authority to determine if a departure from the guidelines' recommendation is warranted. The court may consider such factors as whether the defendant assisted in the investigation or prosecution of another person, or whether the defendant caused the victim to suffer protracted physical or mental harm.

The bill also extends the provisions of Truth in Sentencing to all crimes. A prisoner convicted of a crime and sentenced to the Department of Corrections would not be eligible for early release, discharge, or community supervision until the prisoner has served 85% of the actual term of imprisonment imposed (the provisions of Truth in Sentencing currently apply only to

"no parole offenses"). This percentage must be calculated without the application of earned work credits, education credits, and good time credits. All or part of these credits may be forfeited at the discretion of the Director of the Department of Corrections if the offender commits an offense or violates one of the rules of the institution.

The House amended and sent to the Senate H.4594 which allows a person fishing on the Edisto River to use bream as bait with 9/0 or larger single-barbed set hooks. The Committee proposes an amendment that rewrites the bill. The amendment allows persons fishing on the Edisto, Black, Sampit, Big Pee Dee, Lumber, and Waccamaw Rivers to use live nongame fish and bream for bait with single-barbed set hooks that have a shank-to-point gap of 1 3/16 inches or greater. The amendment prohibits a fisher from possessing over 30 bream while fishing with nongame tackle on these rivers. Violators will be subject to a fine of not more than \$200 or imprisoned for no more than 30 days.

The House amended and returned to the Senate S.972 which creates the Enoree River Greenway Commission (1) to promote the use of the Enoree River; (2) to promote tourism, outdoor recreation, and enjoyment; (3) to promote the development of historical resources; and (4) to foster conservation and wise use of natural resources. The Commission is governed by a 12-member Board of Directors whose members are appointed to serve three-year terms. The Commission's jurisdiction is limited to Laurens, Newberry, and Spartanburg counties. The amendment to S.972 states that if a member misses three consecutive meetings of the Commission, his or her seat is deemed vacant and will be filled in the same manner as original appointment.

The House approved and sent to the Senate H.4039, which deals with the use of the Scenic Rivers Trust Fund. The Scenic Rivers Trust Fund is administered by the Department of Natural Resources for acquiring interest in land adjacent to scenic rivers and river segments, legal fees, appraisals, surveys, and other costs associated with the acquisition of these interests. H.4039 authorizes the use of the Scenic River Trust Fund for educational or planning projects associated with the administration and management of the State's scenic rivers program.

SENATE

The Senate did not meet in statewide session on Wednesday, February 25, 1998 due to the passing of the Honorable Donald S. Russell, former Governor of South Carolina, former U.S. Senator, former District Court Judge, Judge of the U.S. Fourth Circuit Court of Appeals, and former President of the University of South Carolina.

After the House returned H.3337 to the Senate, the Senate nonconcurred in the House amendments. The bill concerns the hiring of the support staff for administrative law judges and the types of cases they would come before the administrative law judges (see House Week in Review, this week). The Senate also gave third reading to S.276, which provides that it is unlawful to give away a live animal as a prize for, or as an inducement to enter, any contest, game, or other competition. H.4577 was placed on the Senate calendar with a majority favorable/minority unfavorable report; this bill bans video poker effective June 1, 1999.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

The House Agriculture, Natural Resources, and Environmental Affairs Committee met on Tuesday, February 24, and reported out H.4594, H.4039, and S.972, which were passed by the full House (see House Week in Review, this issue). The Committee also gave a favorable report to S.835. This bill repeals S.C. Code Section 50-1-95, which requires the reporting of hunting accidents that result in injury or death. Hunting accidents involving firearms or archery tackle are investigated to determine if a crime has occurred per S.C. Code Section 50-1-85.

EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee did not meet this week.

JUDICIARY

The full Judiciary Committee passed H.4589, which amends the Setoff Debt Collection Act. Under the provisions of the Act, certain agencies are permitted to set off a delinquent debt against the debtor's income tax refund. This legislation would include the South Carolina Association of Housing Authority Executive Directors as an entity which could use the collection remedy authorized by the Setoff Debt Collection Act.

The full committee amended and passed H.4360, which would enact the "Sexually Violent Predator Act." The bill establishes procedures for determining if a person is a sexually violent predator, and provides for a civil commitment procedure for the long-term care and treatment of a person found to be a sexually violent predator. The committee amended the definition of "sexually violent predator" to state a person must be convicted of (instead of charged with) a sexually violent offense. The amendment also defines the phrase "likely to engage in acts of sexual violence" and adds language to the notice sections to make clear that the notice requirements are not jurisdictional. The amendment also requires that demand for a jury trial must be made within 30 days after a determination that probable cause exists that a person is a sexually violent predator. If such a demand is made, then the court must schedule a trial before a jury for the next available date for jury court in that county.

The full committee also amended and passed H.4486 (see House Week in Review, this issue).

LABOR, COMMERCE AND INDUSTRY

The House Labor, Commerce and Industry Committee met on Tuesday, February 24. The Committee gave a report of favorable with amendment to H.4438 which pertains to the SC Building Codes Council. The amendment proposed by the committee would completely rewrite the bill such that the membership of the Building Codes Council would remain at fifteen, with one board position to be filled by a building official. The two positions on the Board reserved

for representatives of municipal and county governments, respectively, are merged into a single board position reserved for an administrator, manager, or elected official from either county or municipal government. The number which shall constitute a quorum of the council is raised from seven to eight. A codes advisory committee is created to be elected by the council to adopt or reject codes and code sections. The proposed amendment also allows for the adoption of the International Residential Code and the International Building Code.

The committee also gave a report of favorable with amendment to H.4507 which was passed by the full House (see House Week in Review, this issue).

The Committee tabled H.4454 which requires a surveyor of property to notify landowners or their representatives of a scheduled survey prior to conducting the survey.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The House Medical, Military, Public and Municipal Affairs Committee gave a favorable report to two bills: H.4387 and H.3758.

H.4387 requires the Department of Health and Environmental Control (DHEC) to establish and promulgate regulations for a comprehensive program to test all newborn babies in South Carolina for Human Immunodeficiency Virus (HIV). The Committee proposes an amendment that rewrites the bill. The amendment requires any health care professional who delivers infants or provides prenatal health care to counsel each pregnant woman when she first comes in for prenatal health care. The counseling must include information about HIV, the risk of transmission of the virus to the fetus, and treatment available to prevent transmission. The woman must be offered the opportunity to be tested for HIV. A woman's consent or refusal to be tested must be documented. Any newly delivered baby whose mother's HIV status is not documented must immediately be tested to determine the HIV status of the baby.

The amendment requires that the HIV test results of the mother or baby be made a permanent part of the patient's medical record. It also includes a provision stating that no health care professional can be held liable for performing these required HIV tests or for the release of test information consistent with state law.

The Committee gave a favorable report to H.3758. This bill requires that in filling a county veterans affairs position, first preference should be given to a qualified veteran. A qualified non-veteran should be given preference if a veteran under consideration is less qualified. H.3758 also requires all veterans affairs officers to successfully complete a comprehensive course of training and be issued accreditation within two years following initial appointment, either through the Division of Veterans' Affairs or through an accredited national veterans service organization. Refresher training is required every two years to maintain accreditation. Any county veterans affairs officer who does not complete the required training and receive accreditation within the first two years of being appointed is ineligible to be reappointed.

WAYS AND MEANS

The Ways and Means Committee adopted H.4701, the Supplemental Appropriations Bill for 1998-99, and H.4702, a joint resolution appropriating monies from the Capital Reserve Fund for fiscal year 1997-98.

Highlights of the \$66.1 million Supplemental Appropriations Bill include (but are not limited to): \$1 million to the State Department of Education for textbooks; \$5 million for education technology (telecommunication lines); \$9.4 million to the Property Tax Relief Trust Fund; \$21.8 million to maintain the Fiscal Year 1997-98 funding level for the Local Government Fund; \$10.9 million to the Local Government Fund to cover growth; \$5.7 million to the Department of Health and Human Services for Medicaid growth; \$5.5 million to the Department of Social Services for emotionally disturbed children; and \$2 million to the Department of Commerce to help fund the Spartanburg Renaissance Downtown Development Project (the bill provides that these funds are to be matched 2:1).

H.4701 also provides that, effective July 1, 1998, the Advisory Coordinating Council for Economic Development (the Council) must establish the "Downtown Redevelopment Program" for the purpose of making grants for revitalizing and enhancing downtown areas through partnerships of local government and private investors. The bill provides that the Council must establish program guidelines, regulations, and criteria by which grants must be evaluated, including a specific requirement for matching funds and a requirement for completion of an economic impact before an award is made.

H.4702 appropriates \$86.9 million from the Capital Reserve Fund for Fiscal Year 1997-98. These appropriations include, but are not limited to: \$25 million for higher education formula funding; \$10.8 million to the State Department of Education for textbooks; \$5.7 million to Horry-Georgetown Tec for library and student services; \$4 million to Clemson PSA for the Agriculture and Life Sciences Biotechnology Complex; \$3 million to Clemson for Littlejohn Coliseum; \$3 million to the University of Charleston for the Health and Physical Education Complex; \$2.5 million to the University of South Carolina for the Arena; \$3.5 million to the University of South Carolina for the School of Public Health; \$2 million to DHEC for Horry Beach Renourishment; and \$2 million to PRT for the Columbia Conference Center.

BILLS INTRODUCED IN THE HOUSE

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

H.4690 ENVIRONMENTAL SYSTEMS OPERATORS Rep. Sharpe

This bill rewrites and revises the laws governing Environmental Systems Operators to conform to the statutory framework for professional and occupational boards under the administration of the Department of Labor, Licensing and Regulation (LLR). The number of members (9) and duties of the Environmental Certification Board do not change. The bill clarifies language and updates disciplinary actions for complaints and noncompliance against a licensee.

Currently, the Environmental Certification Board engages in memorandums of understanding with the Department of Health and Environmental Control to regulate pool and spa operators. This bill requires that pool and spa operators be certified annually by the Environmental Certification Board.

H.4691 RENDERING OF LIVESTOCK AND POULTRY RAW MATERIAL Rep. Sharpe

This bill creates the South Carolina Rendering Act of 1998. Rendering is the processing of inedible parts of livestock or poultry carcasses and other raw material, and includes the collection and transporting of raw material for processing. The bill establishes standards for rendering operations, and provides for permits, inspections, and penalties for violations. The State Livestock-Poultry Health Commission is the governing and policy making body and is authorized to promulgate regulations necessary to carry out the Act. The director of the Division of Livestock-Poultry Health Programs at Clemson University administers and enforces the laws relating to rendering livestock, poultry, and raw material in South Carolina.

H.4692 FARM AND FOREST LANDS PROTECTION ACT Rep. Sharpe

This bill creates the Farm and Forest Lands Protection Act. The act establishes State and County Priority Agricultural Land Boards, to assist the Department of Natural Resources in administering a program to create priority agricultural land areas and to purchase agricultural conservation easements for land within the priority areas. A landowner, planning commission, county board, or municipal governing body may submit a request to county council for the creation of a priority agricultural land area within the county. County Priority Agricultural Land proposals must be approved first by the county council, then by the State Board. The bill establishes the standards, procedures and considerations for county council and the State Board to follow in adopting or denying proposals.

The bill creates the Priority Agricultural Land Trust Fund to disburse funds for the purchase of conservation easements. The State Priority Agricultural Land Board has full authority over the administration of funds deposited in the Fund.

H.4693 ENVIRONMENTAL EMERGENCY FUND ACT Rep. Sharpe

This bill creates the Environmental Emergency Fund Act. The Environmental Emergency Fund is created under the act to fund exigencies that may require funds for certain activities that do not fall into any existing programs. Funds from the Environmental Emergency Fund must be financed from fines and penalties levied by the Department of Health and Environmental Control (DHEC), excluding any funds that are explicitly directed for distribution by another statute. The fund balance is limited to \$100,000. When the fund reaches the \$100,000 limit, subsequent fines and penalties must be deposited into the general fund for the State.

The commissioner of DHEC must certify that expenditures from the fund for a specific emergency was necessary to protect the environment or public health.

H.4727 GAME ZONE CONSOLIDATION Rep. Sharpe

Currently, gaming laws are enacted and enforced by zones. This bill consolidates the eleven present game zones into six zones. The bill provides for many statewide statutes to substitute for separate laws in each game zone.

H.4689 SAFE DRINKING WATER ACT Rep. Sharpe

This bill technically revises the Safe Drinking Water Act. The bill amends and revises definitions relating to water supply and the public water system and amends several statutes to conform to the revised definitions. Classification groups for all public water systems are also revised.

EDUCATION AND PUBLIC WORKS

**S.850 PERFORMANCE AND ACCOUNTABILITY FOR EXCELLENCE
IN TEACHING AND LEARNING ACT (EXCEL) Sen. Setzler**

S.850, known as EXCEL, combines higher academic standards, immediate and long-term assistance to students and schools, and a performance-based accountability system as a comprehensive legislative initiative to improve teaching and learning in South Carolina. Highlights of the bill include:

High Academic Standards: Mandates grade-level academic standards in math, English/language arts, social studies and science; provides for standards-based assessments in grades 3-8 and a high school exit exam in all four of these areas.

Immediate Assistance: Provides that districts choosing to lower the pupil-teacher ratio to 15:1 in kindergarten through grade three (phased in over four years) will be eligible for funding assistance. Forty-six alternative schools (one per county) meeting certain criteria will be eligible to receive state funding. The bill requires that the State Board of Education establish programs to help train staff for schools designated as "on notice," and provides for a principal mentoring program, teacher-specialists on site, and principal-specialists on site (salaries and supplements for specialists paid for by the State), to help these schools meet academic standards.

Accountability: The bill creates a performance-based accountability system which links academic and performance standards, accreditation, reporting, school rewards, and targeted assistance for a consistent set of criteria and benchmarks. The bill establishes a rating system to characterize a school's academic performance (schools are designated as "successful," "proficient," "acceptable," "on notice," "or challenged"), and bases school accreditation on academic performance, performance indicators and school progress in meeting district and school goals and objectives, and implementation of state policies and initiatives. The bill provides for an annual report card to inform parents and the public of a school/district's academic performance rating and accreditation status. The bill requires that all districts establish local performance-based accountability systems to stimulate continual improvement and target assistance to low performing schools.

Targeted Assistance: The bill requires that a school and district take specified steps when a school is designated as "on notice" or "challenged." The bill provides assistance in these schools and districts, including professional development for teachers and school improvement actions. Also, a program will be developed which provides supplemental salaries to teachers selected to teach the core academic areas in these schools. The bill provides that an external review committee will examine a challenged school and its district's educational programs and make recommendations to the State Board of Education. The bill specifies actions that are to be taken once the review committee's recommendations are approved, and

specifies actions which will take place if the recommendations are not implemented according to the time line or if academic performance does not meet expected progress.

Ongoing Assistance: The bill establishes thirteen multi-school district regional service centers which will provide coordinated, quality technical assistance to schools and districts. The bill requires the establishment of grant programs to fund homework centers in schools and districts designated as "on notice" or "challenged," and provides for a grant program to assist with additional costs incurred with a modified school year schedule with intersession assistance for students with a "D" average or below in the core academic areas.

Rewards: The bill provides for rewards, including recognition and monetary awards to schools with high performance and including increased flexibility to schools receiving awards two years in a row.

Public/Parent Support: The bill provides for a public relations campaign to inform the public about the importance of high standards and the status of public education, and provides matching state funding for private funds raised for this purpose. Also, the bill provides that a task force will look for ways to encourage and induce parents to oversee and support student academic performance and behavior that contributes to academic improvement.

Oversight and Monitoring: The membership of the current Select Committee (established to oversee implementation of the Education Improvement Act of 1984) is revised to include four business representatives and four educators. A subcommittee manages the Accountability Division which evaluates the accountability system, conducts in-depth studies on the act, and reviews the effectiveness of academic improvement efforts. The bill provides that the Select Committee will study the Education Finance Act foundation program, review the cost of providing the base student cost, and examine the weightings. Also, the bill provides that the cost of providing alternative schools will be studied. A report on the findings is due to the General Assembly by September 1, 1999.

S.1054 REQUEST TO ERECT SIGNAGE Sen. Grooms

This joint resolution is a request that the Department of Transportation erect signs alongside the highways leading into the City of Walterboro. The signs would read: *"City of Champions, Home of Walterboro High School: 1997 AAAA Football Champions and 1997 AAAA Band Champions."*

H.4703 MINIMUM VISION REQUIREMENTS FOR DRIVING Rep. Hawkins

This bill amends statutory minimum vision requirements for driving by adding a provision that a person whose degree of vision is less than 20/40, but better than 20/200 using spectacles, contact lenses, or the carrier portion of bioptic spectacles is eligible for a driver's license under certain specified conditions. Bioptic spectacles are specialized low vision devices.

H.4707 STATE HIGHWAY SYSTEM ROADS Rep. Clyburn

This bill provides that all roads, streets, and highways in South Carolina's highway secondary system which have a speed limit of forty-five miles per hour or higher must have center lines dividing opposing traffic.

**H.4718 TENURE AT STATE-SUPPORTED INSTITUTIONS
OF HIGHER LEARNING** Rep. Witherspoon

This bill adds a chapter to the *SC Code of Laws*, providing that beginning in 2006, no member of the faculty of any state-supported institution of higher education shall be granted tenure unless that person has ten years of college or university-level experience teaching in the subject matter in which they are appointed and a documented record of teaching excellence. The bill further provides that as of January 1, 2007, the total number of tenured faculty at each state-supported institution of higher education may not exceed either one-third of the mean number of all full-time teaching faculty for the most recent five years of that institution, or one faculty member for each one hundred full-time equivalent students of the mean enrollment of that institution for the most recent five years, whichever is lesser. The bill requires that state-supported institutions develop and provide by January 1, 2000, written documentation of explicit policies for awarding tenure. The bill allows these institutions to contract with persons to serve on the faculty, and specifies parameters for contractual terms. The bill also includes a prohibition against awarding automatic tenure (as a result of years of service) to any person holding a contractual faculty appointment. The bill allows all tenured faculty of state-supported institutions of higher learning on the effective date of this bill to hold their tenured status, and provides that if on January 1, 2007, an institution has too many tenured faculty (as specified in the above provisions relevant to that date), the institution shall come within the requirements of these provisions through the process of attrition.

JUDICIARY

H.4680 INDEPENDENT EXPENDITURE IN CAMPAIGN PRACTICES Rep. J. Smith

Under the provisions of this bill, expenditures made by a party committee or legislative caucus committee advocating the election or defeat of a clearly identified candidate are deemed a contribution to the opponent. The expenditures would be subject to the limitations and reporting requirements of the State Ethics Act.

H.4696 PRACTICES APPLICABLE TO THE SALE OF WINE Rep. Altman

This bill regulates certain practices between wine manufacturers, wholesalers, and retailers. Among other provisions, the bill states that a manufacturer or seller of wine must not sell, barter, exchange, transfer, or deliver for resale wine to a person not having a wholesale permit, and a holder of a wholesale permit may not sell, barter, exchange, transfer, or deliver for resale wine to a person not having a retail or wholesale permit, unless that person is the American producer or the primary American source of supply of that wine.

H.4697 SPEEDING VIOLATIONS Rep. McAbee

This bill states that the Department of Public Safety must offer coupons for sale in each county that allow a person stopped for driving at a speed not more than ten miles an hour in excess of the posted speed limit to present to the officer. Upon presentment of the coupon, the officer must release the person from custody immediately and is prohibited from issuing a ticket charging him with an offense.

The coupon book would cost \$100 and would contain four coupons, each with a value of \$25. The coupons would be valid for one year. The money collected from the sale of coupon books would be deposited in the state's general fund with 40% distributed to each county treasurer's

office proportionately based upon the county's population and 60% distributed to the South Carolina Transportation Infrastructure Bank.

H.4706 APPEAL FOR CERTAIN MOTOR VEHICLE OFFENSES Rep. Fleming

Current law provides that an appeal from a conviction of an offense which mandates the suspension or revocation of the driver's license acts to stay the suspension or revocation for a period of sixty days. This bill states that the appeal would stay the suspension or revocation from the date of conviction until the date a final judgment is entered.

H.4715 PRETRIAL INTERVENTION PROGRAM Rep. Knotts

Under the provisions of this bill, children transferred from family court to a trial court for criminal proceedings would not be eligible for the pretrial intervention program. The bill also states that a child must be bound over to a trial court for criminal proceedings if the child is charged with a felony offense and the child previously had been adjudicated delinquent in family court or convicted in circuit court for two prior felony offenses.

H.4719 PROCUREMENT CODE Rep. Cromer

The General Assembly, Legislative Council, and the Office of Legislative Printing and Information Technology Resources are exempt under current law from the provisions of the South Carolina Procurement Code. This bill would delete the exemption from the procurement code for those entities.

H.4721 S.C. PRIVACY ACT OF 1998 Rep. Meacham

This bill states that it is unlawful for any state or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number or driver's license number, unless disclosure is required by a federal or state statute. Furthermore, any state or local government agency which requests an individual to disclose his social security account number or driver's license number must inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of the information.

The bill also prohibits a person or business licensed to do business in South Carolina from denying any goods or service to anyone because of the individual's refusal to disclose his social security account number or driver's license number (unless the information is required by statute).

Persons who intentionally violate the Privacy Act would be guilty of a felony and, upon conviction, must be punished by imprisonment from one to five years and/or the payment of a fine from \$1000 to \$5000.

H.4722 REAL ESTATE RESTRICTIVE COVENANTS Rep. Young-Brickell

Under the provisions of this bill, masters-in-equity have concurrent jurisdiction with the court of common pleas to grant injunctive relief or such other relief as considered appropriate in matters involving real estate restrictive covenants upon the petition of any party.

H.4724 DIVISION OF JUVENILE JUSTICE Rep. Knotts

This bill would create a new division within the Department of Corrections entitled the Division of Juvenile Justice. All duties and authority exercised by the Department of Juvenile Justice would be transferred to and devolved upon the Department of Corrections as of September 30, 1998. The bill states that the Department of Juvenile Justice must strive to provide services at the local level and must contract with court administration for all intake and probation services to be provided through the family court system.

H.4735 STATE BOUNDARIES Rep. Boan

This bill revises the markers referenced in the S.C. Code concerning the North Carolina - South Carolina boundary line at the Chattooga River.

H.4738 ATTORNEY'S FEES Rep. Barrett

Under the Frivolous Civil Proceedings Act (S.C. Code Section 15-36-10 *et seq.*), a person who initiates or continues a frivolous lawsuit may be responsible for the attorney's fees and court costs of the other party. This bill states that the attorney's fees and costs must be assessed if a motion to dismiss for failure to state facts sufficient to constitute a cause of action, a motion for a summary judgment, a motion for a directed verdict, or a motion for an involuntary nonsuit is granted in favor of the person seeking an assessment of the fees and costs.

The bill also states that any person bringing or defending a civil action in the court of common pleas must pay the attorney's fees and costs of the prevailing party in an amount to be determined by the court.

LABOR, COMMERCE AND INDUSTRY

H.4681 LICENSURE AND REGULATION OF AUCTIONEERS Rep. Wilkes

This bill conforms the licensure and regulation of auctioneers to the uniform statutory organizational framework established for professional and occupational boards under the Department of Labor, Licensing and Regulation.

H.4683 CONTINUING EDUCATION FOR INSURANCE AGENTS Rep. Harrison

This bill provides an exemption from continuing education requirements for designees of an association which issues professional insurance designations, or other insurance related designations, for a biennial reporting period and for the lines of insurance covered by the designation. Upon written request, the Director of the Department of Insurance may grant such a biennial exemption only if he finds that professional insurance designation's continuing education requirements are substantially the same as those required by statute.

H.4685 CONSUMER CREDIT INSURANCE Rep. Kirsh

This bill provides that an insurer may not pay a commission, directly or indirectly, of greater than twenty percent on any consumer credit insurance. The Department of Insurance shall annually determine by regulation, order, or bulletin consumer credit insurance premium rates for each one hundred dollars of indebtedness that are considered reasonable. The bill raises from fifty percent to sixty percent the minimum ratio of losses which may be incurred without rates being considered excessive. The premium rate for each one hundred dollars of indebtedness may be multiplied by the number of years (or fraction of a year) that the indebtedness is

scheduled to continue. A minimum charge of two dollars may be made as a premium. Consumer credit insurance sold upon a person other than the debtor is, in itself, unconscionable. The originally scheduled term of any consumer credit insurance must extend at least until the due date of the last scheduled payment of the debt. The bill also provides that an insurer may not pay a commission, directly or indirectly, of greater than twenty percent on any guaranteed auto protection coverage.

H.4698 MISLEADING CONTESTS, SWEEPSTAKES, PRIZE PROMOTIONS Rep. Stuart

This bill places restrictions on the conduct of contests, sweepstakes, and prize promotions. The bill requires the disclosure of such information as the true names and addresses of sponsors, the retail value of prizes offered, and all restrictions associated with receipt of the prize. If a sponsor represents an individual as a "winner," "finalist," etc., the written prize notice must contain a statement of the maximum number of persons in the group purported to have an enhanced likelihood of receiving a prize. The bill specifies how odds of winning and pertinent shipping and handling costs are to be disclosed in the prize notice. A sponsor who represents to an individual that he has one a prize must, no later than thirty days, provide the individual with the prize, the retail value of the prize, or another available prize of equal or greater value. Prize promotions are exempted where the prizes are awarded absolutely for free with no opportunity to pay the sponsor or his agent. Certain immunity from liability is provided for publishers and broadcasters of misleading prize promotions who do not have financial interest in the promotion beyond the acceptance of standard fees for advertisement space or time. Sponsors of prize promotions may not make use of envelopes which mislead recipients into believing that the mailing originated from a government agency, public utility, insurance company, debt collector, etc. Sponsors are subject to other specified restrictions. Any person suffering pecuniary loss from an intentional violation of the act may bring an action in a court of competent jurisdiction and shall recover (in addition to any other available remedies or relief) costs, reasonable attorney's fees, and the greater of five hundred dollars or twice the amount of the pecuniary loss.

**H.4737 EDUCATION REQUIREMENTS FOR REAL ESTATE BROKERS AND SALESMEN
Rep. Bailey**

This bill provides that, for licensure as a real estate salesman, an applicant must complete sixty, rather than the current thirty, hours of classroom instruction in the fundamentals of real estate principles and practices on evidence. For a real estate broker's license, the applicant must complete one hundred fifty, rather than the current one hundred twenty hours, of specified classroom instruction. For a real estate broker's license, ninety, rather than the current sixty, hours of instruction may be the same hours required for the salesman's license.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

S.130 REGULATION OF PHARMACISTS Sen. Giese

This bill rewrites the practice act for pharmacists. The bill sets forth requirements for licensure and permitting, articulates standards for dispensing, and provides guidelines for the practice of pharmacy and protection against unlawful practice. The pharmacist is required to offer to counsel patients on all new prescriptions. Pharmacy technicians are required to be registered with the South Carolina Board of Pharmacy. The bill establishes a ratio of two pharmacy technicians to one pharmacist in community practice.

H.4684 FUNERAL HOME OWNERS Rep. J. Brown

This bill requires funeral homes whose ownership is not clearly reflected in the name under which the business is operating to disclose the name of the owner in its signage, letterhead, and advertisements.

H.4705 DRUG SCREENING FOR EMPLOYEES OF NURSING HOMES Rep. Fleming

This bill requires health care facilities to conduct random drug screening of its employees as a condition of licensure.

H.4716 PER DIEM REIMBURSEMENTS FOR STATE BOARD OF DENTISTRY MEMBERS Rep. Knotts

This bill allows members of the State Board of Dentistry who are authorized to serve in a official capacity with a national or regional organization or other agency to receive per diem, travel, subsistence, or other reimbursements from that agency in lieu of payments for official duties. A member may not receive reimbursements from more than one source for the same expense or duty.

WAYS AND MEANS

H.4682 PROPOSED CONSTITUTIONAL AMENDMENT FOR A LOTTERY Rep. Cromer

This joint resolution proposes an amendment to the SC Constitution authorizing a state-conducted lottery, with the revenues used to provide scholarships to in-state residents to attend South Carolina post-secondary institutions. The joint resolution provides that the criteria for the scholarships would be provided by the General Assembly, but must include a minimum "B" average in high school and a minimum cumulative 3.0 grade average while attending the post-secondary institution.

H.4694 STATE INSURANCE PLAN/STATE RETIREMENT SYSTEM Rep. Neilson

This bill amends the *SC Code of Laws* relating to eligibility for the State Health and Dental Insurance Plans so as to clarify that the entity formerly known as the Division on Aging, Office of the Governor, is now known as the Office on Aging, and is under the Department of Health and Human Services. The bill also adds to the *SC Code of Laws'* definitions of "Employee," as relates to the SC Retirement System, "an employee of a local council on aging or other governmental agency providing aging services funded by the Office on Aging, Department of Health and Human Services," and adds to the definition of "Employer," "a local council on aging or other governmental agency providing aging services funded by the Office on Aging, Department of Health and Human Services."

H.4695 ASSESSMENT OF PROPERTY TAXES Rep. Limehouse

This bill adds a section to the SC Code of Laws regarding assessment of property taxes. The bill provides that, effective for tax years beginning after December 31, 1998 (and upon approval by the Governor), the fair market value of owner-occupied residential property may not increase more than an amount equal to permanent improvements made by the owner-occupant and the percentage increase in the assessed value of all taxable properties in the county in the year immediately preceding a countywide reassessment and the year of a countywide assessment, so long as the property remains occupied by the same owner or by his spouse. The bill also provides that when the property is transferred, other than between spouses, the county assessor shall set the fair market value.

H.4704 DEFINITION OF "GROSS PROCEEDS OF SALES" Rep. Harrell

This bill exempts from the definition of "gross proceeds of sales" (and thereby exempts from sales tax) the sales price on sales which are charged off as bad debts or uncollectible accounts for federal income tax purposes. The bill also provides that a taxpayer who pays the tax on the unpaid balance of an account which has been found to be worthless and is charged off for federal income tax purposes may take credit for the tax paid, except that if an amount charged off is later paid to the taxpayer, the amount paid must be included in the first return filed after the collection and the tax paid.

H.4714 PROPOSED CONSTITUTIONAL AMENDMENT RE PROPERTY TAXATION AND ASSESSMENT Rep. Knotts

This joint resolution proposes an amendment to Section 1(3), Article X of the *SC Constitution* which would add language providing that the assessment ratio of four percent of the fair market value of residential property may be applied to both the principal and secondary domiciles of the owner-occupant.

H.4717 PROPERTY TAX EXEMPTIONS Rep. Knotts

This bill adds to the properties which are exempt from taxation: 1) a boat, boat motor, or private passenger motor vehicle owned by a person 65 years of age or older for personal use who has owned and paid property taxes on such item for at least the five preceding tax years; and 2) the owner-occupied residence of a person 65 years of age or older who has owned and paid property taxes on a personal residence for at least the five preceding property tax years.

H.4720 DEPARTMENT OF REVENUE Rep. McLeod

This bill provides that the Department of Revenue must provide such income tax record as a municipality or county levying a business license tax based on gross receipts or net taxable sales may request, if a taxpayer has reported no gross receipts or has failed to comply with reporting requirements. The bill also deletes provisions made obsolete by the Restructuring Act.

H.4723 TUITION TAX CREDIT Rep. Knotts

This bill allows resident individual taxpayers who pay tuition to a public or private institution of higher learning in South Carolina for themselves or for their children under the age of twenty-three years, so long as they maintain a "C" average, an income tax credit for the tuition paid. The bill allows the taxpayer to qualify for the credit for both themselves and for their eligible children, and allows that unused credit may be carried forward for the five succeeding taxable years.

H.4726 INCOME TAX DEDUCTIONS FOR LAW ENFORCEMENT OFFICERS Rep. Keegan

For purposes of the State Income tax, this bill increases from five dollars to ten dollars the allowed daily subsistence allowance deduction for federal, state, and local law enforcement officers and full-time firefighters and emergency medical service personnel.

H.4734 PROPOSED CONSTITUTIONAL AMENDMENTS REGARDING PROPERTY TAXES Rep. Robinson

This joint resolution proposes two amendments to the *SC Constitution*, to be presented to voters at the next election for representatives. The questions to be voted on are: 1)"Must Article X of the Constitution of this State be amended by adding Section 1A and by amending

existing Section 6 so as to provide that property tax millage imposed on a classification of personal property created to include a portion of the personal property formerly included in the classification of 'all other personal property' but subject to an assessment ratio of less than ten and one-half percent of fair market value, for property tax years beginning after 1999, or earlier as the General Assembly may provide, must be separately imposed at a uniform rate on all property in the class and at a rate that may not exceed the millage rate imposed on such property for any property tax year beginning in 1998, except as approved by a majority vote of the qualified electors of the jurisdiction imposing the millage in a referendum held specifically for this purpose or by a positive majority vote of the governing body of the jurisdiction imposing the millage and defining 'positive majority' as a majority of the entire governing body whether present or not, and providing for a positive majority when there is a vacancy as a majority of the entire governing body as constituted on the date the final date on the higher millage is required?" 2) "Must Section 1(8), Article X of the Constitution of this State, be amended so as to establish a separate class of property for purposes of the property tax consisting of personal property not used in a trade or business which must be titled by a state or federal agency, excluding units of manufactured housing and aircraft, which must be assessed for property tax at the rate of eight and nine-tenths percent of fair market value declining in equal annual reductions over four years to a permanent rate of four percent and to define property tax year as property tax years beginning after 1999 or such earlier tax years as the General Assembly may provide by law?"

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (www.lpittr.state.sc.us) and click on the "Quick Find Guide." On the next screen, click on "Legislative Updates." This will list all of the *Legislative Updates* by date. Click on the date you need.

SPECIAL NOTE: A cumulative index to the weekly issues of the *Legislative Update* has been added to the *Legislative Update* page on the Worldwide Web. Bills are listed in numerical order in this index. Each bill number is followed by a list of hypertext links (in chronological order) to every reference to that bill in any issue of the *Legislative Update* during the current session, 1997-98. This is an easy way (just click on the links) to find summaries of bills introduced into the House and to follow the progress of a bill through House committees and on the floors of the House and Senate.